

SENATE, No. 3207

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED OCTOBER 19, 2015

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

Senator Addiego

SYNOPSIS

Limits liability of caregivers when facilitating normalcy for children in foster care.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/20/2015)

1 AN ACT concerning caregiver liability and supplementing Title 30
2 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. Notwithstanding the provisions of any other law, rule, or
8 regulation to the contrary, a department that is responsible for the
9 care of children shall make efforts to normalize the life of a child in
10 the department's care, custody, or guardianship by empowering the
11 child's caregiver to approve or disapprove, in a manner consistent
12 with a reasonable and prudent parent standard, the child's
13 participation in extracurricular, enrichment, cultural, or social
14 activities.

15 b. In making a determination of a reasonable and prudent
16 parent with regard to allowing a child's participation in
17 extracurricular, enrichment, cultural, or social activities, the child's
18 caregiver shall consider, but not be limited to, circumstances that:

19 (1) encourage the child's formation of healthy, age-appropriate
20 social relationships and bonds;

21 (2) permit the child's participation in age-appropriate social
22 activities and events;

23 (3) allow the child to exercise age-appropriate autonomy and
24 decision making authority within reasonable limits;

25 (4) allow the child to maintain an age-appropriate degree of
26 personal privacy; and

27 (5) avoid imposing upon the child's conduct any unreasonable
28 burden not generally imposed upon other children of the same age
29 and maturity level.

30 c. Neither a caregiver nor the department shall be held liable
31 for an injury caused by an act or omission in connection with the
32 authority granted pursuant to subsection a. of this section unless the
33 act or omission of the caregiver or the department, resulting in the
34 injury, constitutes willful misconduct.

35 d. The immunity afforded in subsection c. of this section shall
36 not limit or remove any liability protection or immunity afforded by
37 any other law or statute.

38 e. As used in this section:

39 "Caregiver" means a resource family parent, foster parent, or a
40 corporate entity or person designated by the department as
41 responsible for the care of a child under the care, custody, or
42 guardianship of the department.

43 "Department" means the Department of Children and Families
44 and any other State department, agency, political subdivision, or the
45 employees of any State department, agency, or political subdivision
46 that is responsible for the care of children.

47 "Reasonable and prudent parent standard " means the standard of
48 care provided to a child which is characterized by careful and

1 sensible parental decisions that maintain the health, safety, and
2 well-being of the child, encourages the emotional and
3 developmental growth of the child, and promotes the best interests
4 of the child.

5 f. Notwithstanding the provisions of the "Administrative
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
7 contrary, the Commissioner of Children and Families shall
8 immediately upon filing proper notice with the Office of
9 Administrative Law, adopt the rules and regulations as the
10 commissioner deems necessary to implement the provisions of this
11 act, which shall be effective for a period not to exceed 270 days and
12 shall, thereafter, be amended, adopted, or readopted by the
13 commissioner in accordance with the requirements of the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.).

16
17 2. This act shall take effect immediately.
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20 STATEMENT

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22 This bill requires the Department of Children and Families and
23 any other State department, agency, political subdivision, or the
24 employees of any State department, agency, or political subdivision
25 responsible for the care of children (department) to make efforts to
26 normalize the life of a child under the department's care, custody, or
27 guardianship.

28 In accordance with the provisions of the federal "Preventing Sex
29 Trafficking and Strengthening Families Act," Pub.L.113-183, the
30 bill would empower the child's caregiver to approve or disapprove,
31 in a manner consistent with a reasonable and prudent parent
32 standard, the child's participation in extracurricular, enrichment,
33 cultural, or social activities.

34 As defined in the bill, "reasonable and prudent parent standard"
35 means the standard of care provided to a child which is
36 characterized by careful and sensible parental decisions that
37 maintain the health, safety, and well-being of the child, encourages
38 the emotional and developmental growth of the child, and promotes
39 the best interests of the child, and "caregiver" means a resource
40 family parent, foster parent, or a corporate entity or person
41 designated by the department as responsible for the care of a child
42 under the department's care, custody, or guardianship.

43 In making a determination of a reasonable and prudent parent
44 with regard to allowing a child's participation in extracurricular,
45 enrichment, cultural, or social activities, the child's caregiver would
46 consider, but not be limited to, circumstances that: encourage the
47 child's formation of healthy, age-appropriate social relationships
48 and bonds; permit the child's participation in age-appropriate social

1 activities and events; allow the child to exercise age-appropriate
2 autonomy and decision making authority within reasonable limits;
3 allow the child to maintain an age-appropriate degree of personal
4 privacy; and avoid imposing upon the child's conduct any
5 unreasonable burden not generally imposed upon other children of
6 the same age and maturity level.

7 Under the provisions of the bill, a caregiver or department would
8 not be held liable for any injury caused by an act or omission
9 connected with the authority granted under the bill unless the
10 caregiver's or department's act or omission causes an injury that
11 constitutes willful misconduct.

12 The bill also provides that the immunity afforded to a caregiver
13 or department does not limit or remove any liability protection or
14 immunity afforded by any other law or statute.